

# **DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS**

## **Amendment of Section 13035, Title 9, California Code of Regulations**

### **Counselor Certification – Certifying Organizations**

#### **Finding of Emergency**

#### **SPECIFIC FACTS AND SUBSTANTIAL EVIDENCE DEMONSTRATING THE EXISTENCE OF AN EMERGENCY AND THE NEED FOR IMMEDIATE ACTION**

The Director of the Department of Alcohol and Drug Programs (ADP) finds that an emergency exists and that the subject regulatory changes are necessary for the immediate preservation of the public peace, health, safety, and general welfare.

In order to work as a counselor in an alcohol and other drug (AOD) treatment program, individuals are currently required to be registered or certified by any of the certifying organizations listed in Section 13035, Title 9, California Code of Regulations (CCR). Section 13035 currently requires all certifying organizations to become accredited by the National Commission for Certifying Agencies (NCCA) by April 1, 2007 in order to continue certifying AOD counselors.

Only three of the ten certifying organizations listed in Section 13035 are currently NCCA certified. ADP is proposing the emergency amendment of Section 13035 to extend the time allowed for NCCA accreditation in order to prevent a devastating workforce disruption in the AOD treatment field that could force many AOD treatment programs to reduce treatment services or go out of business completely, negatively impacting health, welfare, peace, and safety statewide.

If ADP is not allowed to amend Section 13035, only the three certifying organizations that are currently NCCA accredited will be recognized by ADP to certify counselors in AOD facilities in California. As many as 6,800 individuals currently registered or certified with the non-accredited organizations will need to re-register with either of the three NCCA accredited certifying organizations. ADP anticipates that the three accredited certifying organizations may not have sufficient capacity to handle that many additional counselors while maintaining their own quality standards as well as those established by ADP standards. Additionally, those individuals who are able to re-register with NCCA accredited organizations may have to pay additional fees and repeat courses they have already completed elsewhere. As a result, many individuals currently studying to become AOD counselors may become discouraged and leave the AOD treatment field. This loss of AOD counselors would result in an unprecedented workforce disruption in the AOD treatment system, which is already experiencing a shortage of certified AOD counselors. Such a workforce shortage would undermine the AOD treatment system in California, reducing the quality and quantity of treatment services available to

individuals in need of those services. Without AOD treatment, substance abuse will increase statewide, increasing the crime rate and the incidence of blood borne infectious disease (AIDS/HIV and hepatitis), and jeopardizing the health, safety, and welfare of not only individuals needing treatment, but also their families, their communities, and the public at large.

By amending Section 13035 on an emergency basis, the AOD treatment system will remain stable and able to respond to the demand for substance abuse treatment in California, averting the health, welfare, peace, and safety emergency described above.

### **EXPLANATION OF WHY THE PROPOSED REGULATIONS CANNOT BE ADOPTED THROUGH THE NON EMERGENCY REGULATORY PROCESS**

The NCCA accreditation process is more complex and time consuming than originally anticipated. The non-emergency regulatory process takes approximately eight months to complete, however NCCA did not notify ADP that only two certifying organizations had been accredited until late January 2007. ADP immediately began promulgation of an emergency regulatory package because the nonemergency promulgation process could not be completed by April 1, 2000 in time to take effect April 1, 2007.

### **STATUTORY AUTHORITY AND REFERENCE CITATIONS**

Authority: Health and Safety Code Section 11755 and 11834.50

Reference: Health and Safety Code Section 11833 and 11834.27

### **INFORMATIVE DIGEST**

In order to work as a counselor in an alcohol or other drug (AOD) treatment program, individuals are currently required to be certified by one of the certifying organizations listed in Section 13035(a), Title 9, California Code of Regulations (CCR). Section 13035 currently requires all certifying organizations to become accredited by the National Commission for Certifying Agencies (NCCA) by April 1, 2007 in order to continue certifying AOD counselors. This regulatory action will amend Section 13035(b) and (c) to extend the date by which certifying organizations must be accredited by NCCA to September 30, 2007.

### **FISCAL IMPACT STATEMENTS:**

Anticipated costs or savings to federal government:

None

Anticipated costs or savings to State General Fund:

None

Anticipated costs to county or local government:

None

Anticipated fiscal or economic impact on business:

The Department has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulatory action will not impose a cost on business, or eliminate businesses, small businesses, or jobs. In fact, the proposed regulatory action will benefit business throughout the State of California. The proposed extension will prevent certifying organizations from going out of the certification business and will prevent a major workforce disruption in the AOD field that could force AOD programs to reduce services or close completely.

Anticipated fiscal or economic impact on small businesses:

This regulatory action will impact small businesses, since most AOD programs are small businesses. However this regulatory action will benefit small business by preventing a major workforce disruption in the AOD field that could force many AOD programs out of business.

Impact on Representative Private Persons or Businesses:

The Department is not aware of any costs impacts that a representative private person or business will necessarily incur in reasonable compliance with the proposed regulatory action. In fact the proposed regulatory action will benefit up to 6,800 individuals currently registered or certified as AOD counselors. This regulatory change will prevent the need for those individuals to re-register with other certifying organizations, pay additional fees, and repeat already completed coursework. Without this regulatory action, many individuals studying to work in the AOD field may be unable to complete their certification and be forced out of the AOD field.

Impact on Housing Costs:

ADP does not anticipate that this regulatory action will impact housing costs in any way.

**LOCAL MANDATE DETERMINATION:**

ADP has determined that this proposed regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.